

**Department of Transportation  
Office of the Chief Information Officer**

**SUPPORTING STATEMENT  
Financial Responsibility—Motor Carriers, Freight Forwarders and Brokers  
2126-0017**

**INTRODUCTION**

The Federal Motor Carrier Safety Administration (FMCSA) requests the Office of Management and Budget's (OMB) approval of the reinstatement of the information collection request (ICR) entitled "Financial Responsibility—Motor Carriers, Freight Forwarders and Brokers," covered by OMB Control Number 2126-0017. This ICR requires reinstatement because the previous ICR expired on February 28, 2017.

**Part A. Justification.**

**1. Circumstances that make collection of information necessary:**

The Secretary of Transportation (Secretary) is authorized to register for-hire motor carriers of property and passengers under 49 U.S.C. §13902 (see Attachment A); surface freight forwarders under 49 U.S.C. § 13903 (see Attachment B); and property brokers under 49 U.S.C. § 13904 (see Attachment C). These persons may conduct transportation services only if they are registered pursuant to 49 U.S.C. § 13901 (see Attachment D). The Secretary's authority to register these entities has been delegated to FMCSA. The registration, known as operating authority registration, remains valid only as long as the transportation entities maintain, on file with FMCSA, evidence of the required levels of financial responsibility (see 49 U.S.C. § 13906, Attachment E). The FMCSA regulations governing the minimum levels of financial responsibility are found at 49 CFR part 387 (see Attachment F).

Certificates of insurance (Forms BMC-91, BMC-91X and BMC-34); surety bonds (Forms BMC-82, BMC-83 and BMC-84); and trust fund agreements (Form BMC-85) can be used by FMCSA regulated entities to satisfy the statutory financial responsibility requirements. The endorsements (Forms BMC-90, BMC-90B and BMC-32)<sup>1</sup> attached to insured motor carriers' or freight forwarders' policies of insurance establish continuing compliance with the statutory requirement to retain liability insurance, which terminates only when a policy is canceled. Notices of cancellation (Form BMC-35) notify FMCSA when regulated motor carriers and freight forwarders have canceled their required bodily injury and property damage (BI & PD) liability and/or cargo liability coverage. In all instances, notices of cancellation (Forms BMC-36 and BMC-85) notify FMCSA when property brokers or freight forwarders have canceled their surety bonds or trust fund agreements.

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<sup>1</sup> Only household goods motor carriers and household goods freight forwarders need to file the Forms BMC-32 endorsement and BMC-34 certificate of insurance as security to compensate shippers or consignees for loss or damage to cargo in connection with their transportation services. The limits of cargo liability are set forth at 49 CFR 387.303(c).

Section 32918 of the Moving Ahead for Progress in the 21st Century Act (MAP-21)<sup>2</sup> amended 49 U.S.C. §13906 (See Attachment G) by requiring FMCSA to increase the current surety bond or trust fund levels applicable to brokers to \$75,000 and to extend this requirement to freight forwarders of interstate transportation. Congress directed FMCSA to make these non-discretionary changes effective on October 1, 2013. To effectuate these statutory requirements, FMCSA amended the burden for Forms BMC-84 and BMC-85.

Motor carriers can also satisfy the statutory financial responsibility requirement by applying for FMCSA self-insurance authority in lieu of filing certificates of insurance or surety bonds with FMCSA. (See 49 CFR 387.309, Attachment H). Form BMC-40 is the application form carriers use to apply for self-insurance authority.

## **2. How, by whom, and for what purpose is the information used:**

The purpose of certificates of insurance, when filed with FMCSA, is to certify that the insurance company making the filing is providing the motor carrier or freight forwarder named thereon with liability insurance coverage in the amounts prescribed. By requiring the filing of Forms BMC-91, BMC-91X and BMC-34, the Agency ensures that the public is protected and will be compensated for claims involving bodily injury and property damage, or loss or damage to household goods, respectively, within the limits prescribed by FMCSA.

Motor carrier BI & PD liability and household goods cargo liability surety bonds (Forms BMC-82 and BMC-83), when filed with FMCSA, certify that the surety company making the filing is liable for BI & PD and cargo losses and damages of the motor carrier or freight forwarder named thereon. A property broker's or freight forwarder's surety bond (Form BMC-84) or trust fund agreement (Form BMC-85), on the other hand, holds the surety company or trustee liable for any sum or sums that the broker or freight forwarder has failed to pay and "would be held legally liable by reason of [its] failure" to carry out any contracts, agreements, or arrangements for transportation.<sup>3</sup> The filing of surety bonds or trust fund agreements helps ensure that motor carriers and shippers are protected against non-performance of the broker's or freight forwarder's legal obligations.

An endorsement (Forms BMC-90, BMC-90B and BMC-32) sets forth the minimum limits of liability or cargo insurance coverage that an FMCSA-regulated motor carrier or freight forwarder is required to maintain. Attachment of the endorsement to the insurance policy establishes continuing compliance with statutory and regulatory requirements. The purpose of the endorsement is to hold an insurance company liable for any damages that may occur to the public (up to the limits of the policy), and to supersede any exclusions or limitations which may be contained in the insured motor carrier's or freight forwarder's policy.

Notices of cancellation (Forms BMC-35, BMC-36 and BMC-85) are used by insurance and surety companies or trustees to notify FMCSA that a certificate of insurance, surety bond, or trust fund agreement has been canceled. Since evidence of financial responsibility is to be maintained on a continuous basis, FMCSA may revoke the operating authority registration of the

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<sup>2</sup> Pub. L. 112-141, 126 Stat. 405, July 6, 2012.

<sup>3</sup> See Forms BMC-84 and BMC-85.

regulated entity if replacement insurance, a replacement surety bond, or replacement trust fund agreement is not filed with FMCSA by the effective date of the cancellation.

The only alternative motor carriers have to filing certificates of insurance and surety bonds with FMCSA is to qualify to act as self-insurers for their BI & PD and/or cargo liability. Form BMC-40 is the application form used by motor carriers to apply for such authority. Data contained on the completed self-insurance form, and in exhibits attached thereto, provide pertinent information regarding the carrier's or forwarder's financial claims and safety condition. FMCSA uses this data to make a determination regarding whether the entity qualifies for the grant of self-insurance authority.

This ICR has been disaggregated into 10 information collections (ICs) as follows:

- a. IC-1, Form BMC-91 entitled, "Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance."
- b. IC-2, Form BMC-91X entitled, "Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance."
- c. IC-3, Form BMC-34 entitled, "Household Goods Motor Carrier Cargo Liability Certificate of Insurance."
- d. IC-4, Form BMC-82 entitled, "Motor Carrier Bodily Injury Liability and Property Damage Liability Surety Bond Under 49 U.S.C. 13906."
- e. IC-5, Form BMC-83 entitled, "Household Goods Motor Carrier Cargo Liability Surety Bond Under 49 U.S.C. 13906."
- f. IC-6, Form BMC-84 entitled, "Broker's or Freight Forwarder's Surety Bond Under 49 U.S.C. 13906."
- g. IC-7, Form BMC-85 entitled, "Broker's or Freight Forwarder's Trust Fund Agreement Under 49 U.S.C. 13906 or Notice of Cancellation of the Agreement."
- h. IC-8, Form BMC-35 entitled, "Notice of Cancellation Motor Carrier Insurance Under 49 U.S.C. 13906."
- i. IC-9, Form BMC-36 entitled, "Motor Carrier and Broker's Surety Bonds Under 49 U.S.C. 13906 Notice of Cancellation."
- j. IC-10, Form BMC-40 entitled, "Application for Authority to Self-Insure Under 49 U.S.C. 13906."

Forms BMC-90 ("Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability Under Section 13906, Title 49 of the United States Code,") and BMC-32 ("Endorsement for Motor Common Carrier Policies of Insurance for Cargo Liability Under 49 U.S.C. 13906") do not create a paperwork burden for any small businesses. These forms are executed by the insurance company, attached to the BI & PD or cargo liability insurance policy, respectively, and forwarded to the motor carrier or freight forwarder.

### **3. Extent of automated information collection:**

In response to the Government Paperwork Elimination Act (enacted on October 21, 1998, as title XVII of Public Law 105-277, 112 Stat. 2681), FMCSA will require that motor carriers file their registration information on line. All filers will be required to file the insurance forms noted

above electronically, except Form BMC-40, entitled “Application for Authority to Self-Insure Under 49 U.S.C. 13906.” Because fewer than 10 carriers file Form BMC-40 annually, creating an electronic form is not justified. In addition, the Agency is continuing its practice of processing and approving each self-insurance application on a case-by-case basis.

**4. Efforts to identify duplication:**

There are no similar insurance filings made with any other Federal agency or within the Department of Transportation that would result in duplication of this information.

**5. Efforts to minimize the burden on small businesses:**

Paperwork burdens associated with completing Forms BMC-91, BMC-91X, BMC-34, BMC-82, BMC-83, BMC-84, BMC-85, BMC-35 and BMC-36 are minimized for small businesses because such entities merely fill in blank spaces with information about the carrier, freight forwarder or broker, and the insurer, surety or trustee. Furthermore, certificates of insurance, surety bonds, and trust fund agreements are not renewed or replaced on an annual or periodic basis, and notices of cancellation are only filed with FMCSA when an insurance policy, surety bond, or trust fund agreement is terminated.

Endorsements (see Forms BMC-90, BMC-90B, and BMC-32) do not create a paperwork burden for any small business. The insurance company or its agent merely executes the endorsement, attaches it to the BI & PD or cargo liability insurance policy, respectively, and forwards it to the motor carrier or freight forwarder.

Applications for Authority to Self-Insure (see Form BMC-40) consist of seven pages. However, no consideration has been given to limiting the information requested by this form, since such form is submitted on a voluntary basis and the requested data is needed to approve or deny the application to self-insure. Further, the filing of less information could result in FMCSA denying the requested authority and, therefore, defeating the purpose of the form and FMCSA’s regulations governing self-insurance authority.

**6. Impact of less frequent collection of information:**

If this data were collected less frequently, the purpose of the applicable regulations would be defeated. The information collected is intended to establish continuing compliance with statutory financial responsibility requirements and is not collected on a periodic basis.

Form BMC-40 is not filed periodically, but on an “as needed” basis.

**7. Special circumstances:**

There are no special circumstances related to this information collection.

**8. Compliance with 5 CFR § 1320.8:**

On December 30, 2016, FMCSA published a 60-day notice in the Federal Register requesting public comments on “Agency Information Collection Activities; Renewal of an Approved Information Collection; Financial Responsibility—Motor Carriers, Freight Forwarders, and Brokers OMB Control Number 2126-0017 (81 FR 251) (See Attachment I). No comments were received from the public in response to that notice. FMCSA published a 30-day notice in the Federal Register indicating our intent to submit this collection reinstatement request to OIRA and seeking public comments.

**9. Payments or gifts to respondents:**

Respondents are not provided with any payment or gift for this information collection.

**10. Assurance of confidentiality:**

There is no statute, regulation, or Agency policy that provides assurances of confidentiality. On the contrary, the insurance coverages and cancellations evidenced by these filings are public information regularly requested by individuals and groups.

**11. Justification for collection of sensitive information:**

The information requested and collected is not of a sensitive nature.

**12. Estimate of annual burden hours for information requested:**

The annual burden hour estimates are based on 3-year average (2013–15) motor carrier application data derived from FMCSA’s Licensing & Insurance (L&I) January 2017 data snapshot. Using a 3-year average, FMCSA estimates that 369,637 financial responsibility filings will be made in Year 1 of this collection on behalf of 237,624 respondents. However, we anticipate that all will be filed by financial responsibility providers, such as insurance companies, sureties and trust fund providers, as that was the case in the snapshot. Because all of the filings are completed electronically, with many fields being check boxes, FMCSA estimates that the filing time for each form is 10 minutes. The Agency estimates a single self-insurance application would take 40 hours to complete.

The Agency estimates that the MAP-21 changes to Forms BMC-84 and BMC-85 would have no impact on the currently approved average of 10 minutes spent by a respondent completing either form. The Agency estimates an increase of 191 burden hours, 1,146 freight forwarder responses, and 1,146 freight forwarder respondents to Forms BMC-84 and BMC-85 due to MAP-21’s extension of the broker financial security requirement to freight forwarders. The Agency applies 96 hours, 573 responses, and 573 respondents to each form.

<b>IC/Form Number</b>	<b>Annual Burden Hours</b>	<b>Annual Number of Responses</b>	<b>Annual Number of Respondents</b>
IC-1, BMC-91	442	2,654	1,886
IC-2, BMC-91X	34,323	205,940	122,450
IC-3, BMC-34	1,072	6,432	4,683
IC-4, BMC-82	12	71	56
IC-5, BMC-83	7	40	27
IC-6, BMC-84	1,449	8,689	6,437
IC-7, BMC-85	975	5,847	4,320
IC-8, BMC-35	22,745	136,475	94,489
IC-9, BMC-36	582	3,489	3,274
IC-10, BMC-40	80	2	2
<b>Total</b>	<b>61,687</b>	<b>369,637</b>	<b>237,624</b>

### **IC-1: Form BMC-91, Bodily Injury and Property Damage—Full Requirements**

FMCSA estimates that Form BMC-91 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 442 Hours [2,654 x 10 minutes/60 minutes].  
Estimated Annual Number of Respondents: 1,886.  
Estimated Annual Number of Responses: 2,654.

### **IC-2: Form BMC-91X, Bodily Injury and Property Damage Liability Aggregation<sup>4</sup>**

FMCSA estimates that Form BMC-91X takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 34,323 Hours [205,940 responses x 10 minutes/60 minutes].  
Estimated Annual Number of Respondents: 122,450.  
Estimated Annual Number of Responses: 205,940.

### **IC-3: Form BMC-34, Motor Carrier Cargo Liability Certificate of Insurance**

FMCSA estimates that Form BMC-34 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 1,072 Hours [6,432 x 10 minutes/60 minutes].  
Estimated Annual Number of Respondents: 4,683.  
Estimated Annual Number of Responses: 6,432.

### **IC-4: Form BMC-82, Motor Carriers Public Liability Surety Bond**

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<sup>4</sup> Because FMCSA assumes that the URS Final Rule only affects this form, this is the only form with an annual estimate not equal to the average estimate.

FMCSA estimates that Form BMC-82 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 12 Hours [71 x 10 minutes/60 minutes].

Estimated Annual Number of Respondents: 56.

Estimated Annual Number of Responses: 71.

#### **IC-5: Form BMC-83, Motor Carrier Cargo Liability Surety Bond**

FMCSA estimates that Form BMC-83 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 7 Hours [40 x 10 minutes/60 minutes].

Estimated Annual Number of Respondents: 27.

Estimated Annual Number of Responses: 40.

#### **IC-6: Form BMC 84, Broker's or Freight Forwarder's Surety Bond**

FMCSA estimates that Form BMC-84 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 1,449 Hours [8,689 x 10 minutes/60 minutes].

Estimated Annual Number of Respondents: 6,437.

Estimated Annual Number of Responses: 8,689.

#### **IC-7: Form BMC 85, Broker's or Freight Forwarder's Trust Fund Agreement**

FMCSA estimates that Form BMC-85 takes approximately 10 minutes to complete. (Note, this form also includes notices of cancellation of a broker's or freight forwarder's trust fund agreement.)

Estimated Annual Burden to Respondents: 975 Hours [5,847 x 10 minutes/60 minutes].

Estimated Annual Number of Respondents: 4,320.

Estimated Annual Number of Responses: 5,847.

#### **IC-8: Form BMC-35, Notice of Cancellation of Motor Carrier Insurance**

FMCSA estimates that Form BMC-35 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 22,745 Hours [136,472 x 10 minutes/60 minutes].

Estimated Annual Number of Respondents: 94,489.

Estimated Annual Number of Responses: 136,472.

#### **IC-9: Form BMC-36, Notice of Cancellation Motor Carrier and Broker Surety Bonds**

FMCSA estimates that Form BMC-36 takes approximately 10 minutes to complete.

Estimated Annual Burden to Respondents: 582 Hours [3,489 x 10 minutes/60 minutes].

Estimated Annual Number of Respondents: 3,274.

Estimated Annual Number of Responses: 3,489.

**IC-10: Form BMC-40, Authority to Self-insure Against Bodily Injury and Property Damage Claims.**

FMCSA estimates that Form BMC-40 takes approximately 40 hours to complete.

Estimated Annual Burden to Respondents: 80 Hours [2 x 40].

Estimated Annual Number of Respondents: 2.

Estimated Annual Number of Responses: 2.

**Estimated Total Annual Burden for this ICR: 61,687 average annual hours.**

**Estimated Total Annual Number of Respondents for this ICR: 237,624 average annual respondents.**

**Estimated Total Annual Number of Responses for this ICR: 369,637 average annual responses.**

Labor costs for the insurance companies are estimated using the mean wage for an insurance industry insurance claims and policy processing clerk (\$18.04 per hour loaded with fringe benefits at 33.6 percent, based on BLS data or \$24.10 per hour in 2016).<sup>5</sup> For self-insurance filers, FMCSA used the BLS wage rate for a trucking industry insurance underwriter (\$31.27 per hour plus fringe benefits of 33.6 percent or \$41.78 per hour in 2016).<sup>6</sup>

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<sup>5</sup> BLS, March 2016: Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Private industry workers, by industry group, <http://www.bls.gov/news.release/ecec.t10.htm>, accessed June 14, 2016.

<sup>6</sup> FMCSA includes the calculations used in the estimates of costs and burden hours in order to increase the transparency of the analysis. The estimates presented in this analysis are subject to rounding errors. BLS, May 2015: Occupational Employment and Wages, 13-2053 Insurance Underwriters, <http://www.bls.gov/oes/current/oes132053.htm>, accessed June 14, 2016.

<b>IC/Form Number</b>	<b>Average Annual Burden Hours</b>	<b>Hourly Labor Rate</b>	<b>Average Annual Labor Cost</b>
IC-1, BMC-91	442	\$24.10	\$10,659
IC-2, BMC-91X	34,323	\$24.10	\$827,191
IC-3, BMC-34	1,072	\$24.10	\$25,835
IC-4, BMC-82	12	\$24.10	\$289
IC-5, BMC-83	7	\$24.10	\$162
IC-6- BMC-84	1,449	\$24.10	\$34,913
IC-7, BMC-85	975	\$24.10	\$23,499
IC-8, BMC-35	22,745	\$24.10	\$548,163
IC-9, BMC-36	582	\$24.10	\$14,015
IC-10, BMC-40	80	\$41.78	\$3,342
<b>Total</b>	<b>61,687</b>		<b>\$1,488,066</b>

**13. Estimate of Total Annual Costs to Respondents:**

There are no costs associated with electronic filings.

Total Estimate of Annual Costs to Respondents: **\$0.**

**14. Estimate of Cost to the Federal Government:**

The cost of the insurance program is estimated to be about \$19.5 million annually, covering staff, IT services, and overhead.

**15. Explanation of program changes or adjustments:**

There was a slight program adjustment increase of 1,269 average annual burden hours [from 60,418 previously approved average annual burden hours<sup>7</sup> to 61,687 proposed average annual burden hours = 1,269]. There was a change in requirements, as well as, a change in the number of estimated responses. The BMC-84 and BMC-85 forms showed an increase in the number of responses, and burden hours due to the MAP-21 extension of the broker financial security requirement to freight forwarders. The BMC-91X form showed a decrease in the number of burden hours due to the suspension of the URS Rule, which would have required exempt for hire and private hazmat interstate carriers to have their insurance companies file their insurance information with FMCSA. The increased number of responses for the BMC-91X due to the expected implementation of the URS Rule was not accounted for causing a decrease in the number of responses for the BMC-91X form. The change in burden hours for the remaining forms, the BMC-91, BMC-34, BMC-82, BMC-83, BMC-35, BMC-36, and BMC-40, were a result of applying updated data on the number of filers, hence the change in the number of responses.

**16. Publication of results of data collection:**

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<sup>7</sup> ICR Reference No: 201506-2126-006: No material or nonsubstantive changes to a currently approved collection. Approved: 08/05/2015.

The information collected is summarized and displayed in the L&I system.

**17. Approval for not displaying the expiration date for OMB approval:**

FMCSA is not seeking approval to not display the expiration date of OMB approval of the information collection.

**18. Exception to certification statement:**

There are no exceptions to the certification statement.